

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JIMI ROSE,)	CIVIL RIGHTS ACTION
Plaintiff)	
vs.)	No. 02-CV-3842
)	
CITY OF ALLENTOWN, and)	JURY TRIAL DEMANDED
ZONING HEARING BOARD OF)	
THE CITY OF ALLENTOWN,)	
Defendants)	

DEFENDANTS' MOTION TO FILE AFFIDAVIT

NOW, come the Defendants, City of Allentown and Zoning Hearing Board of the City of Allentown, by counsel, James T. Huber, Esquire, and file the within Motion based upon the following:

1. The above-captioned case is scheduled for trial before this Court on March 29, 2005.
2. On January 31, 2005, this Court entered an Order granting the Defendants' Motion in Limine. A copy of said Order is marked Exhibit A, attached hereto, and incorporated herein by reference.
3. Paragraph 4 of said Order precludes the Plaintiff from re-litigating claims previously determined in the Pennsylvania state courts.
4. The Defendants seek leave to file an Affidavit together with copies of the relevant Orders, Opinions, Notices of Appeal, and Briefs filed in the Pennsylvania proceedings involving the Plaintiff so as to establish what issues were previously litigated in the state courts.
5. The filing of these documents in advance of trial will place the documents in the Court's possession, should the Court desire to review them prior to trial.

WHEREFORE, come the Defendants, City of Allentown and Zoning Hearing Board of the City of Allentown, by counsel, James T. Huber, Esquire, and respectfully request that the Court grant them leave to file an Affidavit with copies of the relevant documentation filed before the Pennsylvania state courts, concerning matters related to the Plaintiff's claims before this Court.

RESPECTFULLY SUBMITTED,

James T. Huber, Esquire
HUBER AND WALDRON
535 Hamilton Mall, Suite 301
Allentown, Pennsylvania 18101
(610) 435-9790
I.D. No. 22089

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ORDER

NOW, this day of , 2005, upon consideration of the Defendants' Motion to File Affidavit, said Motion is granted, and the Defendants are granted leave to file an Affidavit with copies of relevant pleadings, briefs, Orders, and Opinions filed in the Courts of the Commonwealth of Pennsylvania, relevant to the same claims which the Plaintiff is asserting in the above-captioned matter.

BY THE COURT:

J.

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CERTIFICATE OF SERVICE

I, James T. Huber, Esquire, hereby certify that I have mailed, by first-class regular mail, a true and correct copy of Defendants' Motion to File Affidavit and proposed Order, upon:

Jimi Rose
911 Barnsdale Road
Allentown, Pennsylvania 18103

James T. Huber, Esquire

Dated: _____